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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,122	11/13/2001	Frank Venegas JR.	IDS-13802/14	6422

25006 7590 01/11/2005

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EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,122

Applicant(s)

VENEGAS, FRANK

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) 9, 10 and 17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,11-14 and 18 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the fifth office action for application serial number 10/054,122. This application contains 17 claims numbered 1-2 and 4-18. Claim 3 was previously canceled. Claims 9-10 and 17 were previously withdrawn as being non-elected species.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2, 4-7, 11-12, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,883,257 to Delafield (of record) in view of US Patent No. 4,662,591 to Encontre.

Regarding claims 1 and 11 and 14, Delafield discloses a collapsible table (Figs. 1-5) comprising: a glass table top (38) (see also col. 4, line 19), a table base top portion disposed in a generally horizontal plane, the top portion comprising a plurality of releasably interconnected horizontal members (36) for supporting the table top thereon; a support portion for supporting the top portion, the support portion comprising a plurality of elongated members (52) releasably interconnected to one another, the elongated members including leg members (52) having lower ends for engaging the floor; and removable structure fittings (10) releasably interconnecting the top portion and the support portion so as to form a generally a rigid base.

Delafield teaches substantially as claimed as discussed above except for the replaceable polymerized sheathing being surrounding the entire each of the tubular members including horizontal members and the elongated members to provide an aesthetic pleasing appearance wherein the sheathing has an inner diameter equal to or greater than the outer diameter of the members.

Encontre discloses a replaceable sheathing or decorative cover (92) surrounding with only the table legs in order to provide an appearance of the table leg and to create a desired decorative effect.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of decorative covers surrounding the table legs and the horizontal frame of Delafield for the desirable purpose of simply catching more area of the table including the table legs and the horizontal members to create a more appearance and more desired decorative effect.

At the time the invention was made, it would also has been obvious matter of design choice to a person of ordinary skill in the art to provide a plurality of decorative covers or sheathing surrounding the table legs and the horizontal members of Delafield because Applicant not disclosed that the sheathing for the horizontal member provides an advantage or solves a stated problem except for the aesthetically pleasing. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the decorative legs of Encontre because Encontre also teaches to provide an aesthetic appearance of the table leg and to create a desired

decorative effect. Therefore, it would have been an obvious matter of design choice to modify Delafield to obtain the invention as specified in claims 1 and 11.

Delafield in view of Encontre also lacks teaching of the material of the sheathing as claimed. However, the material selection is also considered a matter of design choice and economics. The material as selected may be made from any suitable material that possesses sufficient strength to withstand any conditions or object to which it is exposed or attached. Nevertheless, the material selected is commercially available and the selection is considered non-limited. It is therefore, considered as a matter of design choice.

Claims 2, 4, 5, 7, 12 and 18 recited limitations, which are also shown by Delafield in view of Encontre as evidently shown on Figs. 1-5 of Delafield.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Delafield in view of Encontre and further in view of U.S Patent No. 3,462,021 to Hawke et al. (of record).

Delafield as modified discloses substantially as claimed except for the slip-in structural fitting having a connector.

Hawke et al. teaches the slip-in structural fitting having a connector (s-x) operable to connect the fitting to one of the tubes.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a connector in the fitting of Delafield for the desirable purpose of providing a stronger connection between the tube and the fitting as taught by Hawke et al.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Delafield in view of Encontre and further in view U.S Patent No. 3,910,206 to Jay.

Unlike Delafied as modified, Jay discloses a first leg brace (24d, 24b, 24a, 24c) interconnects between two of the legs between the lower and upper ends thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the brace interconnected between the two legs as taught by Jay in order to provide stronger support for the table.

Allowable Subject Matter

3. Claim 8 is objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 15 and 16 are allowed, and the reasons for indication of allowable subject matter have been provided in the previous office action.

Response to Arguments

4. Applicant's arguments filed 10/14/04 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion/motivation to combine the references, the examiner recognizes that obviousness cannot be arbitrarily combined and that there must be some reasons why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining

references is what the combination of disclosures taking as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). It also has been held that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one skilled in the pertinent art. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (page 2, 2nd paragraph of the Remarks), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The rejection based on Delafield in view of Encontre, and/or further in view of Hawke et al or jay as pointed out in the action is therefore, maintained.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244. The examiner can normally be reached on Mon-Fri. from 9:00AM-6:00PM.

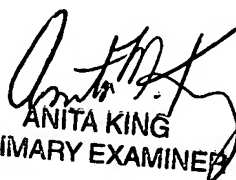
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le
Patent examiner
December 27, 2004.



ANITA KING
PRIMARY EXAMINER